

**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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DEVELOPMENT SERVICES AGENCY

Planning and Community Development
Engineering, Surveying and Permit Services
Roads Department

June 11, 2012

File: Hydrogen Energy California (HECA)

Zone Map No. 120

SCS Energy California, LLC.
Attn: Marisa Mascaro
30 Monument Square, Suite 235
Concord, MA 01742

DOCKET

08-AFC-8A

DATE JUN 11 2012

RECD. JUN 19 2012

RE: Hydrogen Energy California – Amended Application for Certification (08-AFC-8A)

Dear Ms. Mascaro:

This Department is in receipt of a notice from the California Energy Commission, dated May 15, 2012, requesting Agency participation in the review of the amended application submitted to the California Energy Commission (CEC) on May 2, 2012 for the Hydrogen Energy California (HECA) Project. County Staff has worked with the CEC in the past to coordinate information on a variety of renewable energy projects, including large power plants, and will participate in review of this project. As such, we have developed a procedure for the effective management of this coordination role.

The Kern County Board of Supervisors has designated the Kern County Planning and Community Development Department as the clearinghouse for all communications with the CEC. Therefore, as this process moves forward, the Planning and Community Development Department will coordinate with other County Departments to compile suggested mitigation measures and comments for this project. This Department will then present those items to the Board of Supervisors for direction prior to submittal to the CEC. All communications pertaining to potential issues affecting County Departments, County jurisdiction, and potential mitigation measures for this project shall be coordinated through the Planning and Community Development Department and communications should not be represented to the CEC by the project applicant as having County concurrence.

The amended project application to the CEC states that SCS Energy California, LLC (SCS) proposes to construct and operate a 405 MW Integrated Gasification Combine Cycle power generating facility on a 453-acre site (APN 159-040-16 and 18) located at the intersection of Tupman Road and Adhor Road within Kern County. The County notes that this property is zoned A (Exclusive Agriculture) with a Kern County General Plan Designation of 8.1 (Intensive Agriculture – Min. 20 Acre Parcel Size).

After conducting a preliminary review of the revised application to the CEC, Staff provides the following comments:

1. In addition to the power generation facility, it appears that the project includes the use of several chemicals for the purpose of "fertilizer manufacture and storage for agricultural use only" as conditionally permitted in the A (Exclusive Agriculture) district by section 19.12.030.A of the Kern County Zoning Ordinance. This project would normally require County approval of a Conditional Use Permit and other discretionary actions if permitted under County authority; but the project is currently being permitted by the CEC and therefore does not appear to require a conditional use permit at this time.

However, the application package also includes language which suggests that other uses may be planned beyond those permitted in the A zone. For example, language is included on Page 1-4 of the Executive Summary which states that the "Manufacturing Complex" portion of the project will produce products (including urea, urea ammonium nitrate [UAN] and anhydrous ammonia) that will be used for transportation and industrial applications.

Please be advised that the use of urea for manufacture of any products other than fertilizer for agricultural use will require the processing of a General Plan Amendment (GPA) and a Zone Change (ZCC) for industrial land use designations through the County to ensure consistency with our adopted General Plan. Chemical blending or manufacture; certain types of chemical storage; ammonia manufacturing; etc. are all examples of uses which require industrial zoning and general plan designations.

In order to clarify this issue and to allow County Staff to determine if a GPA/ZCC will be required, Staff requests written clarification of the application materials submitted to the CEC pertaining to the chemical manufacturing portion of this request and the specific land uses that will take place.

It is also noted that the CA Department of Conservation Important Farmland Map of Kern County identifies these parcels as prime farmland and all parcels are subject to an active Williamson Act Land Use Contract. Therefore, the project will require the early cancellation of the land use contracts. This is a discretionary application process that is considered by the Kern County Board of Supervisors. Specific application requirements are specified under item 2, below.

2. In response to the CEC's May 15, 2012 request for Agency participation, Staff will provide a recommended list of conditions as well as coordinate other County Departments to provide responses throughout the permitting process. To ensure effective communication with the CEC and to support County processing of the Williamson Act Contract Cancellation as described above, please provide the following:
 - a. A letter from the project applicant (SCS Energy) providing the primary contact information (including name, address, phone, fax and email) for coordination issues and processing of any permits as well as any instructions for copies of correspondence.
 - b. A signed Agreement for Cost Recovery (attached) from the project applicant (SCS Energy). This form will be used to establish a work order that will be billed on a time and materials basis for work done on this project. The funds requested will provide an initial deposit for the charges incurred by Staff during the processing and coordination of the project. Should the balance fall below \$400.00 during the course of processing the request, you will be notified and requested to provide additional funds.
 - c. A completed Indemnification Agreement (attached), signed by the applicant (SCS Energy). Please include corporate papers indicating authority to execute the agreement.
 - d. Complete and return the attached Petition for Cancellation of a Land Use Contract or Land Use Agreement (Form 112). This application must be signed and notarized by the current property owner. Please ensure that the application submittal package contains a legal description for the area to be cancelled, a plat map showing the extent of the cancellation, and a written statement describing the reasons that the cancellation is being requested pursuant to Section 51282 of the CA Code.
 - e. Prepare and submit a non-contracted, proximate parcel analysis which utilizes a 3-mile radius
 - f. Please submit a check made payable to the Kern County Planning and Community Department for an initial deposit of \$10,990.00 (Deposit includes processing fees for a Williamson Act Cancellation).

3. While the use itself may not require discretionary action from the County other than the processing of a Williamson Act Contract Cancellation, there are requirements for compliance with other County regulations; including, but not limited to, the following:
 - a. Tupman Road is classified as a Secondary Highway (Collector) by the Kern County General Plan circulation element. As such, Tupman Road will require a dedication of 45 feet from the centerline of the road and no facilities or structures can be constructed in that area. Staff recommends designing your facility to be outside the dedication area. If facilities need to encroach into the dedication, a General Plan Amendment would be required amend the Circulation Element; which requires public hearings before the Kern County Planning Commission and Board of Supervisors. Amendments to the General Plan can only be considered four times per year.
 - b. Any action to merge the project parcels into one parcel through a Lot Line Adjustment or a Parcel Map is a discretionary action. Processing time for a Lot Line Adjustment and any related amendment of the Williamson Act Contract (if still in place at time of merger) would take up to 4 months to complete. Preparation of a Parcel Map would take 6-7 months to recordation.
 - c. The "Dark Sky" Outdoor Lighting Ordinance, Kern County Planning Ordinance Code Section: 19.81, was approved in December 2011 and project lighting would be required to adhere to this ordinance.
 - d. The Landscaping Ordinance, Kern County Planning Ordinance Code Section 19.86, was approved as of December 2011 and project landscaping must comply with this new ordinance section, including the submittal of a Landscape Documentation Package as detailed in Section 19.86.065. Staff notes that agreements have been made with other power plants within Kern County to allow for reduced landscaping requirements in return for a like contribution of funds to a local elementary school or other community use, as approved by the County. This Department is available to discuss this option with you.

Please submit items 1 and 2 at your earliest convenience. Upon receipt of these materials, Staff will continue to coordinate with the CEC on review of this project and will process the request for a Cancellation of the Williamson Act Contract. Should you have any questions, please contact Jacquelyn Kitchen at (661) 862-8619 or via email at kitchenj@co.kern.ca.us.

Sincerely,



Jacquelyn Kitchen, Supervising Planner
Advanced Planning Division

JK:jm

Enclosed: Agreement for Cost Recovery
Indemnification Agreement
Application for Petition for Early Cancellation

cc:

California Energy Commission
Attn: Robert Worl, Project Manager
1516 9th Street, MS-15
Sacramento, CA 95814

Hydrogen Energy International, LLC
6 Centerpointe Drive
La Palma, CA 90623

URS Corporation
Attn: Dale Shileikis
One Montgomery Street, Suite 900
San Francisco, CA 94104-4538